

12/21/2004 TUE 10:34<sup>2</sup> FAX 12489888363 Carlson, Gaskey & Olds

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DEC 21 2004

60,130-1885; 02MRA0391

**UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Weber  
Serial No.: 10/701,997  
Filed: 11/5/2003  
Examiner: Schwartz, Christopher P.  
Art Unit: 3683  
Title: Temperature Control System for Air/Oil Shock Absorber Module

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESUBMISSION OF  
REQUEST FOR RECONSIDERATION**

Dear Sir:

A Request for Reconsideration was sent via facsimile on December 13, 2004. This submission is not reflected in PAIR. Applicant now resubmits the Request for Reconsideration, along with two facsimile transmission reports and asks that the Request be entered and forwarded to the examiner for consideration.

Respectfully submitted,

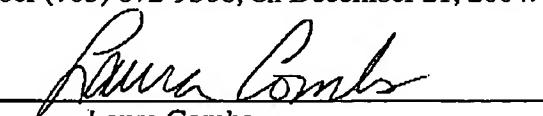
  
Theodore W. Olds, Reg. No. 33,080  
Carlson, Gaskey & Olds  
400 W. Maple Road, Ste. 350  
Birmingham, MI 48009  
(248) 988-8360

Dated: December 21, 2004

60,130-1885; 02MRA0391

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States patent and Trademark Office, fax number (703) 872-9306, on December 21, 2004.

  
Laura Combs

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REQUEST FOR RECONSIDERATION

Dear Sir:

Reconsideration of the final rejection of October 12, 2004 is requested. The examiner argues that since claim 1 simply requires "a control for avoiding an undesirably high temperature within the air volume by replacing hotter air with cooler air, there is only a statement of intended use." The examiner also argues that applicant has made no effort to amend claim 1 to define around the prior art.

Applicant did not need to amend claim 1, as it already defined around the prior art. The "control" limitation of claim 1 is far more than a "statement of intended use." The claim specifically requires that the control perform the function of "replacing hotter air with cooler air." The claim limitation is fairly interpreted to be a step of "replacing" within the air volume. Certainly, claim 2, and claims 3 and 4 which depend to claim 2, make clear that it is the air volume in which the "replacing" is occurring. Simply, and for the reasons set forth previously, the rejection is improper.

60.130-1885; 02MRA0391

Applicant's next step is to appeal this rejection. Applicant does not believe this rejection would survive an appeal conference, and given the increase in appeal filing fees, applicant would ask this case be passed to issue now, rather than after the necessity of preparing and filing an appeal brief. Such action is solicited.

Respectfully submitted,



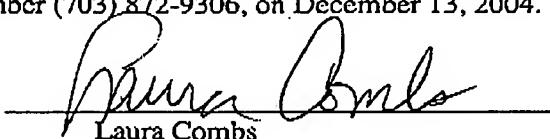
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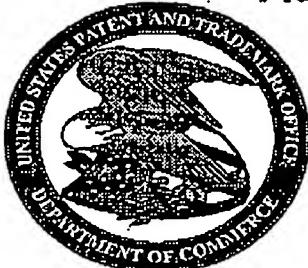
Laura Combs

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USPTO 12/13/2004 3:41 PM PAGE 1/001 Fax Server  
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## Auto-Reply Facsimile Transmission



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Fax Information  
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Cover  
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60,130-1885; 02ndRA.0391	
<b>UNITED STATES PATENT AND TRADEMARK OFFICE</b>	
Applicant:	Webber
Serial No.:	10/701,997
Filed:	11/3/2003
Examiner:	Schwarz, Christopher P.
Art Unit:	3683
Title:	Temperature Control System for Air/Oil Shock Absorber Module
Communications for Patents P.O. Box 1450 Alexandria, VA 22313-1450	
<b>REQUEST FOR RECONSIDERATION</b>	
Dear Sir:	
Reconsideration of the final rejection of October 12, 2003 is requested. The examiner argues that since claim 1 simply requires "a control for avoiding an undesirably high temperature within the air volume by replacing hotter air with cooler air, there is only a statement of intended use." The examiner also argues that applicant has made no effort to amend claim 1 to define around the prior art.	
Applicant did not need to amend claim 1, as it already defined around the prior art. The "control" limitation of claim 1 is far more than a "means of broader use." The claim specifically requires that the control perform the function of "replacing hotter air with cooler air." The claim limitation is fairly interpreted to be a step of "replacing" within the air volume. Certainly, claim 2, and claims 3 and 4 which depend to claim 2, make clear that it is the air volume in which the "replacing" is occurring. Simply, and for the reasons set forth previously, the rejection is improper.	
PAGE 1/2 *RCVD AT 12/13/2004 3:41:54 PM [Eastern Standard Time]* SVR:USPTO-EXRF-1/2 *DNIS:8729306 *CSID:12489888363 *DURATION (mm:ss):01:38	

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Carlson, Gaskey & Olds

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\*\*\* TX REPORT \*\*\*  
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TRANSMISSION OK

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